

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**MARK NASATIR and SETH
NASATIR,**

Plaintiffs,

PEGGY D. MATHES,

Defendant.

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Case No. 3:20-cv-01047

**Chief Judge Waverly D. Crenshaw
Magistrate Judge Barbara D. Holmes**

Jury Demand

**PLAINTIFFS' MOTION FOR CIVIL
CONTEMPT AGAINST BALDINI AUCTION COMPANY, LLC**

The Plaintiffs, Mark Nasatir and Seth Nasatir, respectfully move this Court to hold a third-party, Baldini Auction Company, LLC, in contempt for its failure to respond to a subpoena duces tecum issued in this action. In support of this motion, Plaintiffs state as follows:

1. On December 8, 2020, Plaintiffs filed this action against Peggy D. Mathes. Ms. Mathes serves as the Public Administrator for Davidson County, Tennessee and was appointed as Administrator c.t.a and Personal Representative for the Estate of Joan Valerie Nasatir.

2. In violation of her statutory and common law obligations, Ms. Mathes callously and recklessly ignored the specific bequests set forth in Ms. Nasatir's Last Will and Testament and sold certain personal property through an online auction that was the subject of personal bequests in Ms. Nasatir's Last Will and Testament.

3. Lead counsel for the Defendant has been unavailable for a Rule 26(f) discovery conference because of a death in his family. To advance the case, the Plaintiffs and Defendant, in accordance with Fed. R. Civil P. 26(d)(1), entered and filed a stipulation for the issuance and

service of a subpoena duces tecum on third-party Baldini Auction Company, LLC, the company that Ms. Mathes contracted with and that sold the personal property of Ms. Nasatir's estate, including the property that was bequeathed to Plaintiffs. *See* Stipulation Regarding Third-Party Subpoena Duces Tecum, ECF No. 16.

4. On March 4, 2021, the subpoena duces tecum was served via hand-delivery by a personal process server on Patti Baldini-Martin, the registered agent for Baldini Auction Company, LLC. Pursuant to Rule 45(b)(4), a copy of the subpoena duces tecum with an affidavit of personal service by the process server, Ed Rosello, has been filed with the Court. *See* Affidavit of Service for Subpoena Duces Tecum, ECF No. 18. A copy of the subpoena duces tecum served on Baldini Auction Company, LLC is attached hereto as Exhibit A.

5. Rule 45(g) of the Federal Rules of Civil Procedure provides that “[t]he court for the district where compliance is required . . . may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.”

6. Baldini Auction Company, LLC has failed to produce a single document or otherwise respond in accordance with the Federal Rules of Civil Procedure in response to the Plaintiffs’ subpoena duces tecum.

In further support of this Motion, and in accordance with Local Rule 7.01(a)(2), Plaintiffs rely upon the contemporaneously filed Memorandum of Facts and Law.

WHEREFORE, Plaintiffs respectfully request that the Court:

1. Order Baldini Auction Company, LLC to produce all documents responsive to the document requests listed in the subpoena duces tecum within 10 days.¹

¹ Pursuant to Rule 45(d)(2)(B), Baldini Auction Company, LLC has waived any objections it may have had because it failed to serve any objections within 14 days of service or the date of compliance, which was March 23, 2021.

2. Order Baldini Auction Company, LLC to show cause why it should not be held in contempt of this Court.

3. Award Plaintiffs' counsel attorneys' fees for the cost of this motion.

Respectfully submitted,

/s Eric W. Smith

Eugene N. Bulso, Jr. (No. 12005)

Eric W. Smith (No. 21694)

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Attorneys for Plaintiffs Mark Nasatir and Seth Nasatir

CERTIFICATE OF SERVICE

I hereby certify on this the 31st day of March, 2021 that a true and correct copy of the foregoing document was forwarded via the Court's electronic filing system to the following person:

Thomas D. Corts
Ortale Kelley Law Firm
330 Commerce Street, Suite 110
Nashville, Tennessee 37201

and to the following person via email:

Austin T. Warhime
Ortale Kelley Law Firm
330 Commerce Street, Suite 110
Nashville, Tennessee 37201
awarehime@ortalekelley.com

and will be served to the following person via hand-delivery:

Baldini Auction Company, LLC
c/o Patti Baldini-Martin, Registered Agent
123 Cumberland Shores
Hendersonville, Tennessee 37075

/s Eric W. Smith
Eric W. Smith